

Authority: 7 U.S.C. 4a and 12a.

6. Section 140.99(i) is amended by revising paragraphs (i)(1) and (2) and adding new paragraph (i)(3) as follows:

§ 140.99 Requests for exemptive, non-action and interpretive letters.

* * * * *

(i) * * *

(1) Notice filings required to be made to claim relief from the Act or from a Commission rule, regulation, or order including, without limitations, §§ 4.5, 4.7(a), 4.7(b), 4.12(b), 4.13(b) and 4.14(a)(8) of this chapter;

(2) Requests for exemption pursuant to section 4(c) of the Act; or

(3) Requests for exemption pursuant to § 41.33 of this chapter.

Issued in Washington, DC on August 20, 2001 by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

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DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 697

Industries in American Samoa; Wage Order

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. This document puts into effect the minimum wage rates recommended for various industry categories by Industry Committee No. 24 (the Committee), which met in public and executive session in Pago Pago, American Samoa, during the week of June 4, 2001.

DATES: This rule and the schedule of rate increases included shall become effective on September 11, 2001.

FOR FURTHER INFORMATION CONTACT:

Alan Moss, Chief Economist, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3510, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-0063. (This is not a toll free number.) Copies of the Final Rule in alternative formats may be obtained by calling (202) 693-0072 or (202) 693-1461 (TTY). The alternative formats available are large print, electronic file on computer disk (Word

Perfect, ASCII, Mates with Duxbury Braille System) and audiotape.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or record keeping requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

II. Background

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206, 208), and by means of Administrative Order No. 665 (66 FR 7513), the Secretary of Labor appointed and convened Industry Committee No. 24 for Industries in American Samoa, referred to the Committee the question of the minimum rates of wages to be paid under section 8 of the FLSA to employees within the industries, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted in Pago Pago pursuant to the notice, the Committee filed with the Acting Administrator of the Wage and Hour Division a report containing its findings of fact and recommendations with respect to minimum wage rates for various industry classifications. The FLSA requires that the Secretary publish this report in the **Federal Register** and further requires that the recommendations in the report be effective 15 days after publication. Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938 and 29 CFR 511.18, this rule hereby revises §§ 697.1 and 697.3 of 29 CFR part 697 to implement the recommendations of Industry Committee No. 24.

For the convenience of the public, this regulation has been restructured to facilitate understanding of its content. Section 697.1 provides definitions of the industries for which minimum wage rates have been established. Section 697.2 provides industry wage rates and their effective dates in table form. Under the column heading "September 11, 2001," the rates provided are those established prior to the effective date of the rates recommended by Special Industry Committee No. 24 except for the fish canning and processing industry, for which the Committee set an effective date of "September 11, 2001." The prior rate for the fish canning and processing industry was \$3.20. The final two columns of the table provide the rates effective on October 1, 2001 and October 1, 2002. Section 697.4 (formerly § 697.3)

specifies the effective date of this regulation.

III. Executive Order 12866, Section 202 of the Unfunded Mandates Reform Act of 1995 and Small Business Regulatory Enforcement Fairness Act

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866, and no regulatory impact analysis is required. This document puts into effect the wage rates recommended by Industry Committee No. 24, which met in Pago Pago, American Samoa during the week of June 4, 2001. The Committee recommended increases over two years in various industry categories, ranging from 6 cents per hour for fish canning and processing and the bottling, brewing, and dairy products industry to 12 cents per hour over two years for shipping and transportation, classification A, stevedoring, lighterage, and maritime shipping agency activities.

When these increases are fully implemented, wage rates will range from \$2.57 an hour (miscellaneous activities) to \$4.09 an hour (shipping and transportation, classification A, stevedoring, lighterage, and maritime shipping activities).

There are approximately 16,000 covered employees in the various industry classifications. Based on the number of workers whose wages must be increased to the new minimum wage levels in 2001 and/or 2002, and assuming that some employees currently paid at or in excess of the new minimum wages will also receive commensurate wage increases to maintain relative pay comparability, increases in the overall annual wage bill are expected to be very modest. Thus, this rule is not expected to result in a rule that may (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

For reasons similar to those noted above, the rule does not require a § 202 statement under the Unfunded Mandates Reform Act of 1995.

Finally, the rule is not a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. Although the rule will impact solely on American Samoa, its impact on costs or prices is not expected to be major, for the reasons discussed above.

IV. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have federalism implications.

The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

V. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 533(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

VI. Administrative Procedure Act

Good cause exists for issuance of this rule without publication 30 days in advance of its effective date, as normally required by Section 553(d) of the Administrative Procedure Act. As discussed above, Section 8 of the FLSA requires that the rule be effective 15 days after publication.

VII. Document Preparation

This document was prepared under the direction and control of Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 697

American Samoa, Minimum wages.

Signed at Washington, D.C. this 21st day of August, 2001.

Annabelle T. Lockhart,

Acting Administrator, Wage and Hour Division.

Accordingly, part 697 of Chapter V of Title 29, Code of Federal Regulations is amended as set forth below.

PART 697—INDUSTRIES IN AMERICAN SAMOA

1. The authority citation for part 697 is revised to read as follows:

Authority: 29 U.S.C. 205, 206, 208.

2. Section 697.1 is revised to read as follows:

§ 697.1 Industry definitions.

(a) *Government employees.* This industry includes all activities of employees of the Government of American Samoa. This industry does not include any employees of the United States or its agencies.

(b) *Fish canning and processing.* This industry shall include the canning, freezing, preserving, and other processing of any kind of fish, shellfish, and other aquatic forms of animal life, the manufacture of any by-product thereof, and the manufacture of cans and related activities.

(c) *Petroleum marketing.* This industry shall include the wholesale marketing and distribution of gasoline, kerosene, lubricating oils, diesel and marine fuels, and other petroleum products, bunkering operations in connection therewith, and repair and maintenance of petroleum storage facilities.

(d) *Shipping and transportation.* This industry shall include the transportation of passengers and cargo by water or by air, and all activities in connection therewith, including storage and lighterage operations: *Provided, however,* that this industry shall not include the operation of tourist bureaus and of travel and ticket agencies. *Provided, further,* that this industry shall not include bunkering of petroleum products or activities engaged in by seamen on American vessels which are documented or numbered under the laws of the United States, which operate exclusively between points in the Samoan Islands, and which are not in excess of 350 tons net capacity. Within this industry there shall be three classifications:

(1) *Classification A: Stevedoring, lighterage and maritime shipping agency activities.* This classification shall include all employees of employers who engage in each of the following three services: stevedoring, lighterage and maritime shipping agency activities.

(2) *Classification B: Unloading of fish.* This classification shall include the unloading of raw and/or frozen fish from vessels.

(3) *Classification C: All other activities.* This classification shall include all other activities in the shipping and transportation industry.

(e) *Construction.* This industry shall include all construction, reconstruction, structural renovation and demolition, on public or private account, of buildings, housing, highways and

streets, catchments, dams, and any other structure.

(f) *Retailing, wholesaling and warehousing.* This industry includes all activities in connection with the selling of goods or services at retail, including the operation of retail stores and other retail establishments, the wholesaling and warehousing and other distribution of commodities including but without limitation the wholesaling, warehousing and other distribution activities of jobbers, importers and exporters, manufacturers' sales branches and sales offices engaged in the distribution of products manufactured outside of American Samoa, industrial distributors, mail order establishments, brokers and agents, and public warehouses: *Provided, however,* that this industry shall not include retailing and wholesaling activities included within other industry wage orders which are applicable in American Samoa.

(g) *Bottling, brewing and dairy products.* The bottling, brewing and dairy products industry includes the bottling, sale and distribution of malt beverages and soft drinks in bottles and other containers and the processing or recombining of fluid milk and cream for wholesale and retail distribution and the manufacture of malt beverages, butter, natural and processed cheese, condensed and evaporated milk, malted milk, ice cream and frozen desserts; including also any warehousing operation incidental to the above activities of firms engaged in these activities.

(h) *Printing.* The printing industry is that industry which is engaged in printing, job printing, and duplicating. This industry shall not include printing performed by an employer who publishes a newspaper, magazine, or similar publications.

(i) *Publishing.* This industry is that industry which is engaged in the publishing of newspapers, magazines, or similar publications other than the publishing of a weekly, semiweekly or daily newspaper with a circulation of less than 4,000, the major part of which circulation is within the county or counties contiguous thereto.

(j) *Finance and insurance.* The finance and insurance industry includes all banks (whether privately or government owned in whole or in part) and trust companies, credit agencies other than banks, holding companies, other investment companies, collection agencies, brokers and dealers in securities and commodity contracts, as well as carriers of all types of insurance, and insurance agents and brokers.

(k) *Ship maintenance*. This industry is defined as all work activity associated with ship repair and maintenance, including marine, railway, and dry dock operation.

(l) *Hotel*. This industry shall include all activities in connection with the operation of hotels (whether privately or government owned in whole or in part), motels, apartment hotels, and tourist courts engaged in providing lodging, with or without meals, for the general public, including such laundry and cleaning and other activities as are engaged in by a hotel or motel or other lodging facility on its own linens or on garments of its guests.

(m) *Tour and travel services*. This industry shall include the operation of tourist bureaus and of travel and passenger ticket services and agencies: *Provided, however*, that this industry shall not include the operation of a freight-shipping agency.

(n) *Private hospitals and educational institutions*. This industry shall include all activities performed in connection with the operation of private hospitals, nursing homes, and related institutions primarily engaged in the care of the

sick, the aged or the mentally or physically disabled or for gifted children, preschools, elementary or secondary schools, or institutions of higher education: *Provided, however*, that this industry shall not include employees of the Government of American Samoa or employees of any agency or corporation of the Government of American Samoa.

(o) *Garment manufacturing*. This industry is defined as the manufacture from any material of articles of apparel and clothing made by knitting, spinning, crocheting, cutting, sewing, embroidering, dyeing, or any other processes and includes but is not limited to all the following clothing: men's, women's, and children's suits, clothing and other products; hosiery; gloves and mittens; sweaters and other outerwear; swimwear; leather, leather goods, and related products; handkerchief, scarf, and art linen products; shirts; blouses; and underwear; uniforms and work clothing; and includes assembling, tagging, ironing, and packing apparel for shipping. This industry does not

include manufacturing, processing or mending of apparel in retail or service establishments, including clothing stores, laundries, and other stores.

(p) *Miscellaneous activities*. This industry shall include every activity not included in any other industry defined herein.

3. Sections 697.2 and 697.3 are redesignated as § 697.3 and § 697.4.

4. A new § 697.2 is added to read as follows:

§ 697.2 Industry wage rates and effective dates.

Every employer shall pay to each of his employees in American Samoa, who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in any enterprise engaged in commerce or in the production of goods for commerce, as these terms are defined in section 3 of the Fair Labor Standards Act of 1938, wages at a rate not less than the minimum rate or rates of wages prescribed in this section for the industries and classifications in which such employee is engaged.

Industry	Effective dates		
	Sept. 11, 2001	Oct. 1, 2001	Oct. 1, 2002
(a) Government Employees	\$2.69	\$2.73	\$2.77
(b) Fish Canning and Processing	3.26	3.26	3.26
(c) Petroleum Marketing	3.78	3.82	3.85
(d) Shipping and Transportation:			
(1) Classification A	3.97	4.03	4.09
(2) Classification B	3.81	3.87	3.92
(3) Classification C	3.77	3.83	3.88
(e) Construction	3.50	3.55	3.60
(f) Retailing, Wholesaling, and Warehousing	3.01	3.06	3.10
(g) Bottling, Brewing, and Dairy Products	3.10	3.15	3.19
(h) Printing	3.40	3.45	3.50
(i) Publishing	3.53	3.58	3.63
(j) Finance and Insurance	3.88	3.94	3.99
(k) Ship Maintenance	3.25	3.30	3.34
(l) Hotel	2.78	2.82	2.86
(m) Tour and Travel Services	3.22	3.27	3.31
(n) Private Hospitals and Educational Institutions	3.24	3.29	3.33
(o) Garment Manufacturing	2.60	2.64	2.68
(p) Miscellaneous Activities	2.50	2.54	2.57

5. Redesignated § 697.3 is amended to remove the word “§ 697.1” wherever it appears and add, in its place, the word “§ 697.2”.

6. Redesignated § 697.4 is amended to remove the phrase “September 20, 1999” and add, in its place, the phrase “September 11, 2001.”

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-01-023]

RIN 2115-AE47

Drawbridge Operating Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the Rock Island Railroad & Highway Drawbridge, across the Upper Mississippi River at Mile 482.9, at Rock Island, Illinois. The drawbridge need not open for river traffic and may remain in the closed-to-navigation position from 7 a.m. to 11 a.m. on September 23, 2001. This temporary rule is issued to allow the scheduled running of a foot race as part of a local community event.